

## **REMARKS**

### **Summary**

Claims 3, 4, 5, 6, 7, 10, 11, 12, 13, 16, and 21 were objected to because of informalities. Claims 1-24 were also objected to under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Furthermore, Claims 1-24 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,009,274 to Fletcher et al. ("Fletcher").

The applicants have amended Claims 1, 3-8, 10-14, 16-19 and 21-24. Many claims were amended to include new lines and white space for clarification only. Accordingly, claims 1-24 remain currently pending. No new matter has been entered.

### **In the Drawings**

The applicants have submitted herewith replacement drawing sheet 1 to correct previously undetected informalities. In the replacement drawing sheet of Figure 1, the applicants have substituted the word "Shared Memory Resource" for "Shard Memory" in block 120 for purposes of clarity. No new matter has been added.

### **In the Specification**

The specification has been substituted to improve the clarity of the disclosure. In particular, page 7, lines 24-26 and page 8, lines 1-10 have been amended to

replace “in turn the practically to provider the multi-version support” with “in turn practically provide multi-version support.” No new matter has been added.

Additionally, throughout the balance of the specification, the applicants have substituted the words “update service(s)” for “upgrade service(s)” throughout the specification to improve clarity. No new matter has been added.

### **In the Claims**

#### **Objections to the Claims**

In the Office Action dated August 04, 2004, claims 3, 4, 5, 6, 7, 10, 11, 12, 13, 16, and 21 were objected to because of informalities in the claim language.

Claims 4, 5 and 6 have been amended to include a “:” after “comprising.”

Claims 3, 4, 5, 6, 7, 10, 11, 12, 13, 16, and 21 have been amended to change “remove” to “removed.”

#### **Rejections Under 35 U.S.C. §112 ¶2**

In Office Action dated August 04, 2004, Claims 1, 8, 14, 19, 22, as well as their dependent claims 2-7, 9-13, 15-18, 20-21 and 23-24 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regards as the invention.

Claims 1, 8, 14, 19, 22 have been rejected under § 112 because it was asserted that it was unclear as to which device initiates a request for update, which device is receiving the request, which device is updating which device, whether the

dispatcher is one of the update service, whether only the runtime library is updated or both the runtime library and the application.

For Claim 1, the applicants respectfully assert that the request receiving operation and that the update operation are clear as presented. The request receiving operation calls for the first update service of the first version of the application service provision runtime library to receive an update request, and the update operation calls for the update service of the target version (e.g. "the second update service of said second later version of the runtime library") to update the application to the target version. The applicants are entitled to claim all embodiments regardless of who initiated the request or how the request is communicated from the first update service of the first version to the second update service of the second version. Any variety of approaches with or without the involvement of the dispatcher and/or other third parties may be used to relay the request to the second update service. For purposes of Claim 1, the second run time library is updating the application to the second run time library. The only elements of this claim are that the first version of the application service provision runtime library receives what the target version is, and that the target version of the application service provision runtime library is involved in the update of the application to the second later version of the runtime library.

However, to expedite examination, the applicants have amended Claim 1 to clarify the claim structure. The applicants assert, however, that this amendment is

made for purposes of clarity only and should not be construed as altering the subject matter or the scope of the claim.

For Claim 8, the applicants assert that the apparatus' mechanisms to receive notification of a request for an update and to pass on that notification of the request for the update are clear. Here, the mechanism for receiving notification of a request calls for implementation of a dispatcher (facilitating communication of the update requests) that is designed to receive, from a first update service of a first version of an application service provision runtime library, notification that an application is requesting an update. The mechanism to pass on that request for update calls for the dispatcher to be designed to notify an update service of the target version (e.g. "the second update service of said second later version of the runtime library") of the requested update of the application to the target version. As mentioned for Claim 1, the applicants are entitled to claim all embodiments regardless of who initiated the request or how the request is communicated from the first update service of the first version to the second update service of the second version. Any variety of approaches with or without the involvement of the dispatcher and/or other third parties may be used to relay the request to the second update service. The only elements of this claim are that the apparatus, comprising a processor and a storage medium, implement programming instructions designed to have a dispatcher receive notification of what the target is and eventually notify that target version involved in the update.

However, to expedite examination, the applicants have amended Claim 8 to clarify the claim structure. Also, applicants have substituted the words “update service”, for “update service” to be consistent with the changes made to the specification. The applicants assert, however, that this amendment is made for purposes of clarity only and should not be construed as altering the subject matter or the scope of the claim.

For Claim 14, the applicants assert that the apparatus’ mechanisms to receive notification of a request for an update and to pass on that notification of the request for the update are clear. Here, the mechanism for receiving notification of a request calls for implementation of a first version of an application service provision runtime library which includes a first update service equipped with the ability to receive, from an application, a request to update the application to a second later version of the application service provision runtime library. The mechanism to pass on that request for update calls for the first update service to be equipped to notify a selected one of an update service of the target version (“the second update service of said second later version of the runtime library”) of the request to update the application to the target version, and a dispatcher of the apparatus. As mentioned for Claim 1, the applicants are entitled to claim all embodiments regardless of who initiated the request or how the request is communicated from the first update service of the first version to the second update service of the second version. Any variety of approaches with or without the involvement of the dispatcher and/or other third parties may be use to relay the request to the second update service. The only

elements of this claim are that the apparatus have a processor and a storage medium coupled to each other; that storage medium have programming instructions designed to implement a first version of the application service provision runtime library, including a first update service equipped with the ability to be able to receive a request from an application to update that application's runtime library, and to pass that request to update on.

However, to expedite examination, the applicants have amended Claim 14 to clarify the claim structure. The applicants assert, however, that this amendment is made for purposes of clarity only and should not be construed as altering the subject matter or the scope of the claim.

For Claim 19, the applicants assert that the apparatus' identification of the service to receive notification to perform an update of an application, to perform the update to the application, notify completion of the update are clear. Here, the mechanism for receiving notification of a request calls implementation of a first version of an application service provision runtime library, which includes a first update service. The first update service is equipped with the ability to receive from a selected one notification to update the application to the first version of the application service provision runtime library from a predecessor version of the first version of the first version of the runtime library, and a dispatcher of the apparatus. Then, the first update service updates the application to the first version of the runtime library. The notification of completion of the update calls for the first update service to be equipped to notify a selected one of an update service of the target

version (“the second update service of said second later version of the runtime library”) to of the request update the application to the target version, and a dispatcher of the apparatus. As mentioned for Claim 1, the applicants are entitled to claim all embodiments regardless of who initiated the request or how the request is communicated from the first update service of the first version to the second update service of the second version. Any variety of approaches with or without the involvement of the dispatcher and/or other third parties may be use to relay the request to the second update service. The only requirement of this claim is that the apparatus have a processor coupled to a storage medium with programming instructions designed to implement a first version of the application service provision runtime library receives notification to update an application, update the application, and eventually provide notification that the update is complete. Claim 19 satisfies this requirement.

However, to expedite examination, the applicants have amended Claim 19 to clarify the claim structure. The applicants assert, however, that this amendment is made for purposes of clarity only and should not be construed as altering the subject matter or the scope of the claim.

Claim 22, contains in substance the same relevant language and amendments as Claim 19. Therefore, for at least the same reasons, claim 22 is patentable.

Claims 2-7, 9-13, 15-18, 20-21 and 23-24, which depend from Claims 1, 8, 14, 19 and 22, incorporate the limitations, features and amendments therefrom.

Accordingly, the applicants request that this rejection to Claims 1, 8, 14, 19, 22 as well as their dependant claims 2-7, 9-13, 15-18, 20-21 and 23-24 under 35 U.S.C. § 112, second paragraph be removed.

Claim 17 has been rejected under § 112 because it was asserted to be unclear and confusing. For art rejection purposes, Claim 17 has been interpreted to be equivalent to Claim 6. Applicants have amended 17 to clarify the claim structure and to remove the superfluous and confusing phrase “update said application to said first version of the runtime library.” The applicants assert, however, that these amendments are made for purposes of clarity only and should not be construed as altering the subject matter or the scope of the claims.

Claim 17 now reads as follows:

The apparatus of claim 14, wherein said first update service is further equipped to:

- receive a notification from a selected one of
  - a third update service of a predecessor version of said first version of the runtime library and
  - a dispatcher of the apparatus,

- update, in response to the notification, said application to said first version of the runtime library, and

- notify the selected one of
  - said third update service and
  - said dispatcher of completion of said update of said application to said first version of the runtime library.

Claim 17 contrasts with Claim 6, which now reads as follows:



The method of claim 4, wherein said second later version of the runtime library is greater than one generation removed from said first version of the runtime library, and said method further comprises:

- said dispatcher notifying a third update service of an immediate predecessor version of said second version of the runtime library of said request;

- said third update service of said immediate predecessor version upgrading said application to said immediate predecessor version of the second version of the runtime library; and

- said third update service of said immediate predecessor version notifying said dispatcher of completion upon upgrading said application to said immediate predecessor version of the second version of the runtime library.

The first contrast between the claims is that Claim 17 is directed to an apparatus, not a method, as is Claim 6. In both claims there is intermediate version of the runtime library to which the application is being updated prior to updating to the final target version of the runtime library. Nevertheless, the entry point from where the initial request to update is received differs in the two claims.

In Claim 6, the initial request to update is received from the first update service, which for this claim is an older version of the runtime library than the other two versions, by the dispatcher. Then the dispatcher notifies/orders the intermediate version (immediate predecessor version of target version) to update the application from the first version to the intermediate version.

In Claim 17, the initial request is coming from the intermediate version (which is the first update service in this claim, but is the equivalent to the immediate predecessor version in Claim 6). The order/notification for the first update service to update the application from a predecessor version of the first version of the runtime library is received by the dispatcher or from the update service of the predecessor version directly.

Lastly, the notification source to the intermediate version to update the application is different in Claim 6 in Claim 17. In Claim 6, the notification source is the dispatcher, while in Claim 17 it may be a selected one of “a third update service or a predecessor version...” and the dispatcher.

Since the operation of the invention, as well as the scope, differ in Claims 6 and 17, Claim 17 is not an equivalent to Claim 6. Accordingly, the applicants respectfully request that this rejection to Claim 17 under 35 U.S.C. § 112, second paragraph be removed.

Claims 23 and 24 have been rejected under § 112 because it was asserted that the claims do not further limit Claim 22.

Claim 23 has been amended to specify the first version of the runtime library to be one generation removed from the most recent version of the runtime library. This amendment puts this claim in condition for allowance.

The applicants respectfully disagree with regard to 24. In Claim 22, the first version of the runtime library may be one or more generations removed from the predecessor version of the runtime library. Claim 24 limits the distance in generations to just one between the two versions of the runtime libraries. However, Claim 24 has been amended to ensure that there is sufficient antecedent basis for “said predecessor version” by amending the language to “said **first** predecessor version.” The applicants assert, however, that this amendment is made for clarity purposes only and should not be construed as altering the subject matter or the

scope of the claim. Accordingly, the applicants request that this rejection to Claims 23 and 24 under 35 U.S.C. § 112, second paragraph be removed.

Claims 9, 10, 11, 12, 13 has been rejected under § 112 because they recite the limitation “said second later version” at line 1 while providing insufficient antecedent basis for this limitation in the claims. The applicants have amended independent Claim 8, from which Claims 9-13 depend, to provide the appropriate antecedent basis for this limitation.

Claim 19 has been rejected under § 112 because it recites the limitation “said application” while providing insufficient antecedent basis for this limitation in the claims. The applicants have amended Claim 19 to provide the appropriate antecedent basis for this limitation.

Accordingly, the applicants request that this rejection to Claims 9, 10, 11, 12, 13 under 35 U.S.C. § 112, second paragraph be removed.

#### Rejections Under 35 U.S.C. §102(b)

Claims 1-24 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,009,274 to Fletcher et al. (“Fletcher”).

It is well settled that anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of art to teach **each and every** limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052, 32 USPQ2d 1017, 1019 (Fed. Cir. 1994). Thus, to anticipate the present invention, *Fletcher* must disclose every element recited in the pending claims.

Furthermore, anticipation requires that each claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). Claim 1 has been amended and all amendments are fully supported by the original disclosure, no new matters have been introduced.

Amended Claim 1 now reads as follows:

In an application service provision apparatus having an application service provision runtime library with multiple versions, a method of operation comprising:  
receiving, by a first update service of a first version of said application service provision runtime library, a request to update an application to a second later version of the runtime library; and  
a second update service of said second later version of the runtime library upgrading said application to said second later version of the runtime library.

The differences between *Fletcher* and the present application are how updates are coordinated and performed. Amended Claim 1 now clearly requires that two specific operations be performed. The first required operation is for a first version of a runtime library, through its update service (first update service), receive a request to update an application to a second later version of the runtime library. The second required operation is for the second later version of a runtime library, through its update service (second update service), update the application to that second later version of the runtime library.

By contrast, *Fletcher* has a server that runs a request generator/controller that coordinates with agents running on end systems that operate to install software components that are being updated. (See at least 5:53 – 6:49, 12:36-37 and 12:58-62). That is, the software described in *Fletcher* does not have a relationship with

any element that is an equivalent with the update services of an application service provision runtime library in Claim 1. In the present claim, the application service provision runtime libraries themselves have a relationship, e.g. they are versions of each other; and, the applications are updated by the target runtime library's update service to run the target runtime library.

At the very least, Fletcher does not teach nor anticipate an equivalent of a second update service of a second later version of a runtime version upgrading an application. Likewise, Fletcher does not teach nor anticipate an equivalent of a first update service of a first version of said application service provision runtime library receiving a request to update an application.

For at least these reasons Claim 1 is clearly patentable over Fletcher under section 102.

Claims 8, 14, 19, and 22 contain in substance the same elements discussed above for claim 1. Accordingly, for at least the same reasons, Claims 8, 14, 19 and 22 are clearly patentable over Fletcher under section 102.

Claims 2-7, 8-13, 15-18, 20-21 and 23-24 are dependant on Claims 1, 8, 14, 19 and 22, incorporating their limitations. By virtue of at least the dependency, Claims 2-7, 8-13, 15-18, 20-21 and 23-24 are also patentable over the cited references.

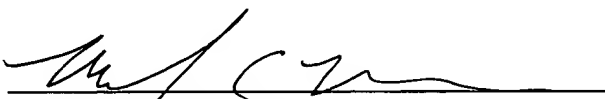
### CONCLUSION

In view of the foregoing, Claims 1-24 are in condition of allowance, and early issuance of Notice of Allowance are respectfully requested.

Please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,  
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### **Amendments to the Drawings**

The applicants have submitted herewith replacement drawing sheet 1 to correct previously undetected informalities.